

21 C.J.S. Courts § 82

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

G. Discretion of Court to Exercise or Decline Jurisdiction

2. Forum Non Conveniens as Basis for Declining Exercise of Jurisdiction

§ 82. General principles of forum non conveniens as basis for declining exercise of jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#) 40.1, 40.2

Forum non conveniens allows a court to decline the exercise of jurisdiction of a case if it appears that another forum can better serve the convenience of the parties and the ends of justice.

Forum non conveniens allows a court to decline the exercise of jurisdiction of a case if it appears that another forum can better serve the convenience of the parties and the ends of justice.¹ Forum non conveniens is an equitable doctrine² predicated on considerations of justice, fairness, convenience,³ and the sensible and effective administration of justice.⁴ The purpose of the doctrine is to avoid litigation in a seriously inconvenient forum rather than to ensure litigation in the most convenient forum.⁵ It prevents the waste of time, energy, and money, and protects witnesses, litigants, and the public against unnecessary expense and inconvenience,⁶ allowing courts to dismiss claims based on practical considerations that affect litigants, witnesses, and the justice system.⁷ It is based on the reasoning that personal or subject matter jurisdiction in the forum court is not a substitute for the existence of a convenient forum.⁸ Forum non conveniens is not a substantive right of the parties but a procedural rule of the forum.⁹

For the court to decline jurisdiction and dismiss an action on the grounds of forum non conveniens, there must be an adequate¹⁰ or suitable alternative forum in which justice may be had,¹¹ and the balance of private and public concerns must strongly favor the motion to dismiss on that ground,¹² outweighing the preference the court generally must give to the plaintiff's choice of forum.¹³

Dismissal for forum non conveniens is appropriate only in exceptional circumstances when the factors weigh strongly in favor of another forum.¹⁴

The doctrine may be codified by statute¹⁵ but exists at common law¹⁶ and is equally applicable in an interstate¹⁷ or intrastate context¹⁸ as well as between a state court and a forum in a foreign country.¹⁹

Forum selection clause.

An agreement between the parties purporting to require that litigation take place in a different forum is one factor to be considered²⁰ but is not necessarily binding under forum non conveniens considerations,²¹ particularly when contrary to public policy,²² except as a local statute may otherwise provide.²³

CUMULATIVE SUPPLEMENT

Cases:

Factor of practical problems that would make trial easy, expeditious, and inexpensive, as part of the analysis for forum non conveniens, did not weigh in favor of British citizen who had brought action against Delaware parent corporation of Bahamian corporation and two of parent corporation's directors, who were Canadian citizens, in regards to a failed purchase of land in the Bahamas from Bahamian corporation, where unsuccessful purchaser's complaint was substantially or functionally identical to the prior ten years of litigation spanning three foreign countries and there was a common nucleus of operative facts. [Hall v. Maritek Corporation](#), 170 A.3d 149 (Del. Super. Ct. 2017).

California former employee was entitled to grant of forum non conveniens motion to transfer to California former Massachusetts employer's action regarding enforcement of confidentiality, noncompetition, and nonsolicitation agreement, despite presence of forum selection clause in agreement designating Massachusetts as forum; California was available alternative forum, California substantive law applied to dispute, all relevant actions in case took place in California, witnesses were all located in California and could not be compelled to appear in Massachusetts, all relevant evidence was in California or was available electronically, and former employer's claimed harmed business operations were located in California and served California customers. [Cal. Bus. & Prof. Code § 16600](#); [Cal. Civ. Code § 3426.1\(d\)](#); [Cal. Lab. Code § 925](#). [Oxford Global Resources, LLC v. Hernandez](#), 480 Mass. 462, 106 N.E.3d 556 (2018).

[END OF SUPPLEMENT]

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Footnotes

1 U.S.—[Sinochem Intern. Co. Ltd. v. Malaysia Intern. Shipping Corp.](#), 549 U.S. 422, 127 S. Ct. 1184, 167 L. Ed. 2d 15 (2007).

Fla.—[Cortez v. Palace Resorts, Inc.](#), 123 So. 3d 1085 (Fla. 2013).

Ill.—[Saba Software, Inc. v. Deere and Co.](#), 2014 IL App (1st) 132381, 390 Ill. Dec. 456, 29 N.E.3d 85 (App. Ct. 1st Dist. 2014).

Mont.—[Harrington v. Energy West Inc.](#), 2015 MT 233, 380 Mont. 298, 356 P.3d 441 (2015).

N.J.—[Johnson v. Bradshaw](#), 435 N.J. Super. 100, 86 A.3d 760 (Ch. Div. 2014).

N.Y.—[Koop v. Guskind](#), 116 A.D.3d 672, 984 N.Y.S.2d 68 (2d Dep't 2014).

Or.—[Espinoza v. Evergreen Helicopters, Inc.](#), 266 Or. App. 24, 337 P.3d 169 (2014) review allowed, 357 Or. 143, 350 P.3d 201 (2015).

Wash.—[Acharya v. Microsoft Corp.](#), 189 Wash. App. 243, 354 P.3d 908 (Div. 1 2015).

2 Ill.—[Saba Software, Inc. v. Deere and Co.](#), 2014 IL App (1st) 132381, 390 Ill. Dec. 456, 29 N.E.3d 85 (App. Ct. 1st Dist. 2014).

N.J.—[Tatham v. Tatham](#), 429 N.J. Super. 502, 60 A.3d 522 (App. Div. 2013).

3 N.Y.—[Century Indem. Co. v. Liberty Mut. Ins. Co.](#), 107 A.D.3d 421, 966 N.Y.S.2d 410 (1st Dep't 2013).

4 Ill.—[Saba Software, Inc. v. Deere and Co.](#), 2014 IL App (1st) 132381, 390 Ill. Dec. 456, 29 N.E.3d 85 (App. Ct. 1st Dist. 2014).

5 D.C.—[Garcia v. AA Roofing Co., LLC](#), 125 A.3d 1111 (D.C. 2015).

6 Ala.—[Ex parte Transp. Leasing Corp.](#), 128 So. 3d 722 (Ala. 2013).

7 Tex.—[Brenham Oil & Gas, Inc. v. TGS-NOPEC Geophysical Company](#), 472 S.W.3d 744 (Tex. App. Houston 1st Dist. 2015).

8 Fla.—[Armas v. Banco Nacional De Credito, C.A.](#), 129 So. 3d 404 (Fla. 3d DCA 2013).

9 W. Va.—[State ex rel. J.C. ex rel. Michelle C. v. Mazzone](#), 235 W. Va. 151, 772 S.E.2d 336 (2015).

10 Fla.—[Cortez v. Palace Resorts, Inc.](#), 123 So. 3d 1085 (Fla. 2013).

N.J.—[Yousef v. General Dynamics Corp.](#), 205 N.J. 543, 16 A.3d 1040 (2011).

Tex.—[Brenham Oil & Gas, Inc. v. TGS-NOPEC Geophysical Company](#), 472 S.W.3d 744 (Tex. App. Houston 1st Dist. 2015).

Utah—[Energy Claims Ltd. v. Catalyst Inv. Group Ltd.](#), 2014 UT 13, 325 P.3d 70 (Utah 2014).

As to determining the adequacy of the forum, see § 83.

11 U.S.—[Sinochem Intern. Co. Ltd. v. Malaysia Intern. Shipping Corp.](#), 549 U.S. 422, 127 S. Ct. 1184, 167 L. Ed. 2d 15 (2007).

Ariz.—[Parra v. Continental Tire North America, Inc.](#), 222 Ariz. 212, 213 P.3d 361 (Ct. App. Div. 1 2009).

Cal.—[Aghaian v. Minassian](#), 234 Cal. App. 4th 427, 183 Cal. Rptr. 3d 822 (2d Dist. 2015), review denied, (May 13, 2015).

Alternative forum not required

N.Y.—[Huani v. Donziger](#), 129 A.D.3d 523, 11 N.Y.S.3d 153 (1st Dep't 2015).

A.L.R. Library

Forum non conveniens doctrine in state court as affected by availability of alternative forum, 57 A.L.R.4th 973.

12 § 85.

13 § 86.

14 Nev.—[Provincial Gov't of Marinduque v. Placer Dome, Inc.](#), 350 P.3d 392, 131 Nev. Adv. Op. No. 35 (Nev. 2015).

Extraordinary circumstances

Or.—[Espinoza v. Evergreen Helicopters, Inc.](#), 266 Or. App. 24, 337 P.3d 169 (2014) review allowed, 357 Or. 143, 350 P.3d 201 (2015).

15 Cal.—[Britton v. Dallas Airmotive, Inc.](#), 153 Cal. App. 4th 127, 62 Cal. Rptr. 3d 487 (1st Dist. 2007).

Tex.—[In re General Elec. Co.](#), 271 S.W.3d 681 (Tex. 2008).

16 U.S.—[Sinochem Intern. Co. Ltd. v. Malaysia Intern. Shipping Corp.](#), 549 U.S. 422, 127 S. Ct. 1184, 167 L. Ed. 2d 15 (2007).

Mich.—[MDOT v. American Motorists Ins. Co.](#), 305 Mich. App. 250, 852 N.W.2d 645 (2014).

Mont.—[San Diego Gas & Elec. Co. v. Gilbert](#), 2014 MT 191, 375 Mont. 517, 329 P.3d 1264 (2014).

N.Y.—[Huani v. Donziger](#), 46 Misc. 3d 534, 997 N.Y.S.2d 219 (Sup 2014).

17 Fla.—[Nordlicht v. Discala](#), 139 So. 3d 951 (Fla. 4th DCA 2014).

Ill.—[Wilder Chiropractic, Inc. v. State Farm Fire and Cas. Co.](#), 2014 IL App (2d) 130781, 382 Ill. Dec. 781, 13 N.E.3d 194 (App. Ct. 2d Dist. 2014).

18 Ill.—[Wilder Chiropractic, Inc. v. State Farm Fire and Cas. Co.](#), 2014 IL App (2d) 130781, 382 Ill. Dec. 781, 13 N.E.3d 194 (App. Ct. 2d Dist. 2014).

19 Cal.—[Aghaian v. Minassian](#), 234 Cal. App. 4th 427, 183 Cal. Rptr. 3d 822 (2d Dist. 2015), review denied, (May 13, 2015).

Fla.—[Telemundo Network Group, LLC v. Azteca Intern. Corp.](#), 957 So. 2d 705 (Fla. 3d DCA 2007).

Minn.—[Paulownia Plantations de Panama Corp. v. Rajamannan](#), 793 N.W.2d 128 (Minn. 2009).

N.J.—[Yousef v. General Dynamics Corp.](#), 205 N.J. 543, 16 A.3d 1040 (2011).

Tex.—[Brenham Oil & Gas, Inc. v. TGS-NOPEC Geophysical Company](#), 472 S.W.3d 744 (Tex. App. Houston 1st Dist. 2015).

20 U.S.—[Victory Management Solutions, Inc. v. Grohe America, Inc.](#), 103 F. Supp. 3d 191 (D.P.R. 2015), on reconsideration, 2015 WL 10662841 (D.P.R. 2015).

Cal.—[Verdugo v. Alliantgroup, L.P.](#), 237 Cal. App. 4th 141, 187 Cal. Rptr. 3d 613 (4th Dist. 2015), as modified on other grounds on denial of reh'g, (June 25, 2015).

Subject to validity

Okla.—[Tucker v. Cochran Firm-Criminal Defense Birmingham L.L.C.](#), 2014 OK 112, 341 P.3d 673 (Okla. 2014).

21 N.J.—[Chubb Custom Ins. Co. v. Prudential Ins. Co. of America](#), 195 N.J. 231, 948 A.2d 1285 (2008) (service of suit clause in insurance).

Permissive clause subject to considerations

Cal.—[Verdugo v. Alliantgroup, L.P.](#), 237 Cal. App. 4th 141, 187 Cal. Rptr. 3d 613 (4th Dist. 2015), as modified on other grounds on denial of reh'g, (June 25, 2015).

22 Cal.—[Verdugo v. Alliantgroup, L.P.](#), 237 Cal. App. 4th 141, 187 Cal. Rptr. 3d 613 (4th Dist. 2015), as modified on other grounds on denial of reh'g, (June 25, 2015).

23 N.Y.—[Credit Suisse Intern. v. URBI, Desarrollos Urbanos, S.A.B. de C.V.](#), 41 Misc. 3d 601, 971 N.Y.S.2d 177 (Sup 2013).

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